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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,834	04/02/2004	Young Jo Lee	K-0628	8847
34610 7590 01/23/2007 FLESHNER & KIM, LLP P.O. BOX 221200 CHANTILLY, VA 20153			EXAMINER NGUYEN, THUAN T	
			ART UNIT 2618	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	
3 MONTHS			01/23/2007	
			DELIVERY MODE PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,834	<b>Applicant(s)</b> YOUNG JO LEE	
	<b>Examiner</b> THUAN T. NGUYEN	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/02/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --*

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

2. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Bender (U.S. Patent No. 7,099,629 B1).

Regarding claim 1, Bender teaches a method of adaptive controlling a forward data rate in a wireless communication system (Fig. 1 and col. 1/line 35 to col. 2/line 17 for forward link channel structure) comprising steps of detecting a current channel status according to a pilot signal received from a base station (Fig. 2a and col. 2/line 23-45 for pilot signals in reserve link channel & Figs. 3a-3b and col. 3/lines 17-39 for forward link channel structure and pilot signals); calculating a delay time, wherein the delay time equaling a time interval between reception of a pilot signal and reception of a data signal (col. 8/line 44 to col. 9/line 15 for offset or "staggering distance" for the delay time); determining a target forward data rate based on the calculated delay time and the current channel status (col. 9/line 45 to col. 10/line 9 as a forward link channel transmitted by the target modem pool transceiver is determined—whether to support the fast access transmission for forward data rate); and transmitting a value indicative of the target

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forward data rate to the base station (col. 10/lines 10-33, refer back again to Fig. 1 and col. 1/lines 52-60 as MPC can be regarded as high data rate (HDR) base station).

Regarding claim 2, Bender teaches a method of adaptive controlling a forward data rate in a wireless communication system (Fig. 1 and col. 1/line 35 to col. 2/line 17 for forward link channel structure) comprising steps of receiving a pilot signal from a base station (col. 2/lines 35-45 as the access terminal is transmitting pilot signals from HRD base stations or MPC); detecting a current channel status according to a pilot signal received from a base station (Fig. 2a and col. 2/line 23-45 for pilot signals in reserve link channel & Figs. 3a-3b and col. 3/lines 17-39 for forward link channel structure and pilot signals); calculating a delay time, wherein the delay time equaling a time interval between reception of a pilot signal and reception of a data signal (col. 8/line 44 to col. 9/line 15 for offset or "staggering distance" for the delay time); determining a target forward data rate based on the calculated delay time and the current channel status (col. 9/line 45 to col. 10/line 9 as a forward link channel transmitted by the target modem pool transceiver is determined –whether to support the fast access transmission for forward data rate); and transmitting a value indicative of the target forward data rate to the base station (col. 10/lines 10-33, refer back again to Fig. 1 and col. 1/lines 52-60 as MPC can be regarded as high data rate (HDR) base station).

As for claim 3, this feature is taught by Bender (col. 8/lines 44-col. 9/line 15 & col. 10/lines 34-47 for the delay time and the predetermined values corresponding to delay times).

As for claim 4, this feature is suggested by Bender as an active set is addressed for each modem pool transceiver in the access terminal (col. 5/line 48-col. 6/line 8).

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As for claims 5-6, these claims are rejected for the reasons given as discussed in claims 1-3 above.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Huh et al. and Kwan (in PTO 892 attached) disclose systems related to wireless communication systems with forward data rate method.

4. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to the New Central Fax number:**

(571) 273-8300, (for Technology Center 2600 only)

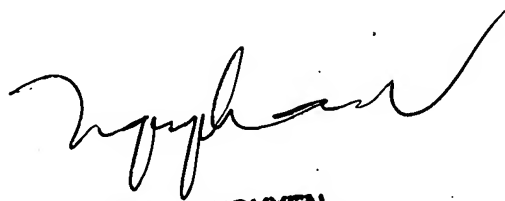
Hand deliveries must be made to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895.

The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TONY T. NGUYEN**  
**PATENT EXAMINER**

Tony T. Nguyen  
Art Unit 2618  
January 18, 2007